

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2007-195

KATHLEEN MARIE NORKUNAS
P. O. Box 248
Piedra, California 93649

Registered Nurse No. 406754

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 8, 2009.

It is so ORDERED December 8, 2008.

La Francine W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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1 EDMUND G. BROWN JR., Attorney General
of the State of California
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2007-195

12 KATHLEEN MARIE NORKUNAS
PO Box 248
13 Piedra, CA 93649

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Registered Nurse License No. 406754

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled matter:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N., Executive Officer (Complainant) is the
21 Executive Officer of the Board of Registered Nursing. She brought this action solely in her
22 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
23 the State of California, by Kimberlee D. King, Deputy Attorney General.

24 2. On or about October 31, 1986, the Board of Registered Nursing issued
25 Registered Nurse License No. 406754 to Kathleen Marie Norkunas (Respondent). The License
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 2007-
27 195 and will expire on April 30, 2008, unless renewed.

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1 3. Accusation No. 2007-195 was filed before the Board of Registered
2 Nursing (Board) , Department of Consumer Affairs, and is currently pending against Respondent.
3 The Accusation and all other statutorily required documents were properly served on Respondent
4 on January 31, 2007. Respondent timely filed her Notice of Defense contesting the Accusation.
5 A copy of Accusation No. 2007-195 is attached as exhibit A and incorporated herein by
6 reference.

7 4. Respondent has had the opportunity to and has in fact reviewed the nature
8 of the charges alleged in the Accusation and the terms and conditions set forth herein with her
9 attorney and enters into this stipulation with the advice of her attorney.

10 5. Respondent is represented in this proceeding by attorney Michael S.
11 Weinberg, whose address is Post Office Box 25, Piedra, CA 93649.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. 2007-195. Respondent has also
15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
16 Settlement and Disciplinary Order.

17 7. Respondent is fully aware of each of her legal rights and that, but for this
18 stipulation, she would be entitled: 1) to a hearing on the charges and allegations in the
19 Accusation; 2) to be represented by counsel, at her own expense, in all proceedings in this
20 matter; 3) to confront and cross-examine the witnesses testifying against her; 4) to present
21 evidence and call witnesses on her own behalf, or to herself testify, and to the issuance of
22 subpoenas to compel the attendance of witnesses and the production of documents. Respondent
23 is aware of her right to contest the charges and allegations and any other rights which may be
24 accorded to her pursuant to the California Administrative Procedure Act (Government Code §
25 11500 *et seq.*), as well as her right to petition for reconsideration or to appeal to the Superior
26 Court or any other court of review.

27 8. With these rights in mind, Respondent hereby freely, voluntarily, and
28 knowingly waives and gives up each and every right set forth above including, but not limited to,

1 the right to a hearing on the charges and allegations contained in Accusation No. 2007-195 and
2 the right to reconsideration and judicial review, in order to enter into this stipulation.

3 Respondent understands that, in signing this stipulation rather than contesting the Accusation,
4 she is enabling the Board to impose disciplinary action upon her license without further process.

5 CULPABILITY

6 9. All admissions of facts and conclusions of law contained in this stipulation
7 are made exclusively for this proceeding and any future proceedings between the Board and
8 Respondent, or between Respondent and any other licensing agency in the State of California,
9 and shall not be deemed to be admissions for any purpose in any other administrative, civil or
10 criminal action, forum or proceeding.

11 10. Respondent's license history and status as set forth at paragraph 2 of the
12 Accusation are true and correct. Respondent's address of record is current and accurate as set
13 forth in the caption of this Stipulation.

14 11. For the purpose of settlement and compromise of the instant proceeding
15 before the Board only, and not for any other purpose in any other civil or criminal matter, except
16 in proceedings before the Board of Registered Nursing or any other professional licensing agency
17 in the State of California, Respondent stipulates that said charges and allegations, if proved,
18 would constitute cause for imposing discipline upon Respondent's registered nursing license
19 heretofore issued by the Board.

20 12. Respondent further stipulates that the Board has jurisdiction to impose a
21 public reprimand upon her license to practice registered nursing pursuant to section 495 of the
22 Business and Professions Code.

23 13. Based on all of the recitals and stipulations herein, it is stipulated and
24 agreed that Registered Nurse License No. 406754 heretofore issued to Respondent shall, by way
25 of letter from the Executive Officer, be publicly reprimanded. Said letter of public reprimand
26 will issue as set forth herein above and shall be in the same form as the sample letter attached
27 hereto as Exhibit "B."

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14. In consideration for entering into this stipulated agreement ("Agreement"), Respondent hereby waives any right to challenge the legal effect of this Agreement, by way of petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any other legal claim or defense, which she may have asserted, including, but not limited to, any time based claim such as laches, in the event it is necessary to calendar an administrative hearing based on part or all of Accusation No. 2007-195.

CONTINGENCY

15. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

17. Each term contained herein is a separate and distinct term and condition. If any term and/or condition of this Agreement, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Agreement, and all other applications thereof, shall not be affected. Each term and condition of this Agreement shall separately be valid and enforceable to the fullest extent permitted by law.

ACCEPTANCE

I have carefully read the above Stipulated Settlement. I understand the stipulation and the effect it will have on my license to practice registered nursing, License Number 406754.

1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Board of Registered
3 Nursing.

4
5 DATED: 6/8/08

Kathleen Marie Norkunas
KATHLEEN MARIE NORKUNAS
Respondent

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8 I have read and fully discussed with Respondent Kathleen Marie Norkunas the
9 terms and conditions and other matters contained in the above Stipulated Settlement and
10 Disciplinary Order. I approve its form and content.

11 DATED: 7/8/08

Michael S. Weinberg
MICHAEL S. WEINBERG
Attorney for Respondent

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16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
19 Affairs.

20 DATED: August 12, 2008

21
22 EDMUND G. BROWN JR., Attorney General
of the State of California

23
24 Kimberlee King
KIMBERLEE KING
Deputy Attorney General

25
26 Attorneys for Complainant

Exhibit A
Accusation No. 2007-195

1 BILL LOCKYER, Attorney General
of the State of California
2 JENNIFER S. CADY
Supervising Deputy Attorney General
3 KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-195

12 KATHLEEN MARIE NORKUNAS
PO Box 248
13 Piedra, CA 93649

A C C U S A T I O N

14 Registered Nurse License No. 406754

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about October 31, 1986, the Board of Registered Nursing issued
23 Registered Nurse License Number 406754 to Kathleen Marie Norkunas (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a

1 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
2 or administer to another, any controlled substance as defined in Division 10 (commencing with
3 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
4 defined in Section 4022."

5 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 STATUTORY PROVISIONS

10 9. Section 4022 prohibits the dispensing or furnishing of a dangerous drug or
11 dangerous device, which is any drug or device that is unsafe for self-use in humans or animals,
12 without a prescription or as legally authorized.

13 10. Section 4051 states:

14 "(a) Except as otherwise provided in this chapter, it is unlawful for any person to
15 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
16 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
17 is a pharmacist under this chapter.

18 "(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a
19 prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or
20 patient consultation if all of the following conditions are met:

21 "(1) The clinical advice or information or patient consultation is provided to a
22 health care professional or to a patient.

23 "(2) The pharmacist has access to prescription, patient profile, or other relevant
24 medical information for purposes of patient and clinical consultation and advice.

25 "(3) Access to the information described in paragraph (2) is secure from
26 unauthorized access and use.

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1 11. Section 4059, subdivision (a), states:

2 “ A person may not furnish any dangerous drug, except upon the prescription of a
3 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
4 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
5 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
6 3640.7.”

7 12. Health and Safety Code section 11352.1 states:

8 “(a) The Legislature hereby declares that the dispensing and furnishing of
9 prescription drugs, controlled substances, and dangerous drugs or dangerous devices without a
10 license poses a significant threat to the health, safety, and welfare of all persons residing in the
11 state. It is the intent of the Legislature in enacting this provision to enhance the penalties
12 attached to this illicit and dangerous conduct.

13 “(b) Notwithstanding Section 4321 of the Business and Professions Code, and in
14 addition to any other penalties provided by law, any person who knowingly and unlawfully
15 dispenses or furnishes a dangerous drug or dangerous device, or any material represented as, or
16 presented in lieu of, any dangerous drug or dangerous device, as defined in Section 4022 of the
17 Business and Professions Code, or who knowingly owns, manages, or operates a business that
18 dispenses or furnishes a dangerous drug or dangerous device or any material represented as, or
19 presented in lieu of, any dangerous drug or dangerous device, as defined in Section 4022 of the
20 Business and Professions Code without a license to dispense or furnish these products, shall be
21 guilty of a misdemeanor. Upon the first conviction, each violation shall be punishable by
22 imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand
23 dollars (\$5,000), or by both that fine and imprisonment. Upon a second or subsequent
24 conviction, each violation shall be punishable by imprisonment in a county jail not to exceed one
25 year, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and
26 imprisonment.”

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13. Health and Safety Code section 101070 states, in pertinent part:

“(a)(1) The Legislature hereby finds and declares that the dispensing or furnishing of drugs requiring a prescription pursuant to Section 11470, a controlled substance as defined in Section 4021 of the Business and Professions Code, or a dangerous drug or a dangerous device as defined in Section 4022 of the Business and Professions Code, without a license poses a significant threat to the public health, safety, and welfare of all residents of the state. In recent years, the public has become increasingly exposed to a proliferation of persons who engage in these illegal or dangerous acts.”

DANGEROUS DRUGS

14. Arimidex, a prescription drug, is a registered trade name for Anastrozole, an oral administration tablet. It is indicated for the treatment of advanced breast cancer in postmenopausal women with disease progression following tamoxifen therapy. It is categorized as a dangerous drug pursuant to Business and Professions Code section 4022 (a).

FIRST CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without Authorization)


15. Respondent is subject to disciplinary action under Code section numbers 2761(a) and (d), in conjunction with Health and Safety Code sections 11352.1 and 101070, and Code sections 4022, 4051, and 4059 in that on or about October 26, 2004, while on duty at the City of Hope National Medical Center (CHNMC), Duarte, CA, Respondent dispensed and/or furnished a partially used bottle of Arimidex, which was prescribed for another patient, to Patient X. The directions and name of the other patient on the bottle of Arimidex were scratched out in black ink and Respondent did not give patient X any directions for taking the drug. Respondent dispensed and/or furnished this medication from a stockpile of unused medications prescribed to deceased and current patients that Respondent kept in a cupboard in her office. Respondent instructed the families of CHNMC patients to return all unused medications to her after the patient's death.

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C. Taking such other and further action as deemed necessary and proper.

DATED: 11/18/07


RUTH ANN TERRY; M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

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DEPARTMENT OF CONSUMER AFFAIRS

Exhibit B

LETTER OF PUBLIC REPRIMAND



STATE AND CONSUMER REPRIMAND AGENCY • ANNOUË REPRIMANDEREN GOVERNMENT

BOARD OF REGISTERED NURSING

P.O. Box 944210, Sacramento, CA 94244-2100

P (916) 322-3350 | www.rn.ca.gov

Ruth Ann Terry, MPH, RN, Executive Officer



January 8, 2009

KATHLEEN MARIE NORKUNAS
P. O. Box 248
Piedra, CA 93649

RE: Public Reprimand, In the Matter of the Accusation Against
KATHLEEN MARIE NORKUNAS
Case No. 2007-195

Dear Ms. Norkunas:

On January 18, 2007, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your license to practice registered nursing alleging unprofessional conduct under Business and Professions Code section 2761 regarding your conduct on or about October 26, 2004, wherein you are alleged to have acted unprofessionally in furnishing dangerous drugs without authorization, and obtaining and possessing these drugs without a valid prescription.

Taking into consideration the fact that you have been licensed by the Board since 1986 without any prior disciplinary action, that the conduct was more than three years ago, and that there are other mitigating circumstances in this case which support the determination that you are safe to practice registered nursing, the Board has decided that the charges warrant a public reprimand.

Accordingly, pursuant to the authority provided under section 495 of the Business and Profession Code, and in resolution of this matter, the Board of Registered Nursing hereby issues this letter of public reprimand.

Sincerely,

Ruth Ann Terry M.P.H., R.N.

RUTH ANN TERRY, R.N., M.P.H.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California